

JOINT DEFENSE AGREEMENT

This Joint Defense Agreement ("Agreement") executed by and between the Members of the Washington Liquor Control Board, named below, in their official capacities, and their counsel, the Office of the Attorney General, and the Washington Wine and Beer Wholesalers Association and its counsel, is as follows:

I. RECITALS

1. Costco has filed a lawsuit against the Washington Liquor Control Board members individually in the United States District Court for the Western District of Washington at Docket No. CV04-0360P (hereafter "the Costco suit.")

2. The Costco suit alleges that certain Washington State statutes and regulations regulating the distribution and sale of alcoholic beverages violate federal antitrust laws, the commerce clause of the US Constitution, certain clauses of the Washington State Constitution and 42 USC 1983. Costco seeks a declaration that the challenged laws are void and to enjoin enforcement of the challenged laws, together with attorney fees, costs and other relief.

3. The Washington Wine and Beer Wholesale Association filed a motion to intervene and such motion was granted by the Court.

4. The parties agree that they share a common interest in opposing the meritless case brought by Costco, that their respective interests, claims and defenses are substantially similar and that their respective interests and those of the public are best served by working together and asserting joint defenses. The parties agree that it is in the public's best interest to vigorously defend the Costco suit.

5. The parties agree that there do not appear to be any cross-claims or other claims that could be asserted between them in this case. The parties further agree that it is in the public's best interest to vigorously defend the Costco suit and to defer any litigation on potential cross-claims they may have or that may arise until after the final resolution of the Costco suit.

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PLAINTIFF'S EXHIBIT	
CASE NO.	CV04-0360P
EXHIBIT NO.	212

NOW, in consideration of the above promises, covenants and recitals, such consideration which is substantial, the parties stipulate and agree as follows:

II. AGREEMENT

1. The Recitals above are part of this Agreement.
2. The undersigned parties hereby stipulate and agree that each of them remains fully independent for all purposes and that this Agreement does not obligate either party to accept or adopt any strategies or defenses asserted by any other party.
3. Each of the undersigned expressly represents and warrants that he or she is authorized to sign this agreement and bind the parties to the terms and conditions of this agreement.
4. The parties stipulate and agree that they will not assert any claims or cross-claims against one another during the pendency of this Agreement.
5. To prevent interference with the public policy of encouraging pre-trial settlement and compromise of litigation, it is agreed that if any party(ies) reach(es) a pre-trial settlement with plaintiff in the Costco suit, this Agreement shall not be construed as a restraint on any such party's right to settle; it is also agreed, however, that any such settlement shall not operate as a settlement or release as to any other party and shall not impact the right of any other party to pursue the litigation to the fullest extent, including trial and appeal, as such other party deems appropriate. In the event of such settlement, this agreement will become null and void as to such settling party(ies), except for the recitals above and paragraphs 6, 7, 8, 9 and 10 below.
6. This Agreement shall not be construed as a waiver, release, or relinquishment of any potential claim or cross-claim possessed by any party against any other party to this Agreement.
7. This Agreement is part of the trial strategy of the parties and their counsel and as such is protected from discovery under the work product doctrine.
8. This Agreement shall remain confidential, and shall not be knowingly or intentionally disclosed to Costco, its attorney or any third-party. The parties and their counsel shall

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not disclose the terms of this Agreement unless by court order or mutual consent.

9. The parties agree that it is their intent to allow for the sharing of confidences, work product, litigation strategy and other confidential materials created in anticipation of or preparation for litigation and that no privilege, including work product and attorney-client, shall be waived as a result of sharing such information pursuant to this Agreement. Such sharing may be accomplished in writing, orally or both, and includes without limitation (a) the disclosure of documents, factual and legal analyses, factual and legal memoranda, communications including electronic mail and notes or memoranda of oral communications, interview reports, reports of experts, consultants or investigators; (b) meetings in person or by electronic means including without limitation telephone calls and video conferencing, electronic mail or chat and forms of communication, electronic or otherwise, between or among counsel and one or more parties, and between or among counsel and representatives of parties or witnesses, and (c) records or reports of any such communications.

10. It is the intent of the parties that no privileged or protected information shared pursuant to this agreement shall be used against a party to this Agreement in this or any subsequent claim or litigation.

11. It is the intent of the parties to this Agreement that work product, attorney-client and any other privilege available to any party to this Agreement shall apply to all parties to this Agreement, and that no privilege is waived by sharing information pursuant to this Agreement.

12. This Agreement memorializes and supersedes any prior oral understanding among the parties regarding the sharing of privileged, protected and confidential information and applies to all communications and other exchanges of information (whether written or oral) among the parties and their counsel related to the Costco suit prior to the execution of this Agreement.

13. The parties agree that they do knowingly enter into this Agreement as their free and voluntary act, and upon the advice of counsel.

14. It is the intent of the parties that this Agreement shall be applicable to themselves,

their agents, and employees, and that it shall apply equally to counsel for the parties, their agents, and employees, and to any expert witnesses which may be retained by any party hereto in the Costco suit.

15. This Agreement shall terminate automatically upon resolution by trial, settlement or upon appeal of a final order in the Costco suit. This provision is without prejudice to the parties' right to enter into a new Agreement for purposes of appeal.

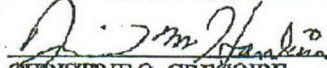
16. The parties agree that upon termination of this Agreement they shall promptly return within thirty (30) days all materials produced or shared under this Agreement to the originating party, or shall certify that all such materials have been destroyed.

17. This Agreement shall be construed in accordance with the laws of the State of Washington.

DATED this 26th day of July, 2004.

ROGER HOEN, VERA ING, and MERRITT LONG, in their official capacities as members of the Washington State Liquor Control Board;

BY AND THROUGH THEIR COUNSEL:



CHRISTINE O. GREGOIRE
Attorney General

DAVID M. HANKINS
Assistant Attorney General
LINDA M. MORAN
Senior Assistant Attorney General
SHARON S. ECKHOLM

WASHINGTON BEER & WINE WHOLESALE ASSOCIATION

BY AND THROUGH THEIR COUNSEL:


ROBERT BARONSKY
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JOHN C. GUADNOLA
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